IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION NO.78 OF 2007

IN

CRIMINAL APPEAL NO.602 OF 2005

Shri Prakash @ Appa Haribhau Londhe] Applicant] Org.Complainant

versus

Shri Gorak Baban Kankate and others.] Respondents.

Mr.Anil Dhavale i/by Mr.S.P.Hulyalkar for the applicant - original complainant.
Mr.O.A.Siddiqui for Respondent No.1.
Mr.P.S.Hingorani, APP, for the State.

CORAM : D.G.DESHPANDE
SMT.NISHITA MHATRE, JJ.
DATED : JUNE 13, 2007.

P.C.

1. This is an application filed by original

complainant Prakash Londhe for cancellation of bail granted to Respondent/Accused No.1 - Gorakh Baban Kankate by the Division Bench of this Court by an order dated 9th August 2006.

2. We heard learned advocate for the complainant, learned advocate for respondent - accused No.1 Gorak and learned APP for the State.

3. It was contended by the learned advocate for the complainant that for C.R.No.64 of 2002, accused No.1 Gorak came to be arrested on 2.3.2002. Accused No.1 Gorak came to be released by the trial Court between 7.7.2004 and 29.07.2004. While on bail, i.e. on 4.9.2004, accused No.1 Gorak along with others committed offences under Section 384, 357, 387, 323, 504, 506 r/w 34 of the Indian Penal Code and C.R. No.237 of 2004 at Loni Kalbhor Police Station, Pune came to be registered against them and they were arrested in that offence on 8.9.2004. Then accused No.1 Gorak was again released on temporary bail and then came to be convicted by the trial Court in the present sessions case against which an appeal is filed.

4. According to the learned advocate for the complainant, since accused No.1 Gorak committed offences while on bail and since he made certain wrong statements in his Application No.742 of 2006, which was decided by the Division Bench of this Court in his favour on 9.8.2006, his bail should be cancelled.

5. We are not in agreement with the submissions made by the learned advocate for the applicant/complainant. Because after granting bail by this Court on 9.8.2006, accused No.1 Gorak has not committed any offence, at least nothing was pointed out to us in that regard.

6. According to the complainant, however, when his bail application was being heard, accused No.1 Gorak made false representation that when he filed the bail application he was inside the jail and, therefore, false statement dis-entitles him from continuing to remain on bail.

7. While granting bail to accused No.1

Gorak, no such statement was made before us by the advocate for the accused Gorak and there was no occasion for the APP to meet those contentions. Bail was granted to accused No.1 Gorak on merits of the case and for the alleged commission of offence on 4.9.2004, when accused Gorak was on bail during trial, the bail granted by this Court on 9.8.2006 cannot be cancelled. There is no merit in this application. It is rejected.

[D.G.DESHPANDE,J]

[SMT.NISHITA MHATRE, J]